

PTO Form 1960 (Rev 9/2007)

OMB No. xxxx-xxxx (Exp. x/xxxx)

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	77039012
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 108
<b>MARK SECTION (no change)</b>	
<b>ARGUMENT(S)</b>	
<p>In the final Office Action dated August 7, 2007, the Examining Attorney rejected applicant's identification of goods as being too broad and/or unclear. In addition, the Examining Attorney stated that some of the goods listed in the application should be classified in International Class 5.</p> <p>Accordingly, applicant herein amends its identification of goods to provide further clarification. As a result of this amendment, applicant has reclassified some of its goods into newly added International Class 5. The requisite fee for the newly added class is provided for herein. The Director is hereby authorized to charge any additional filing fees to Deposit Account No. 19-1090. Applicant asserts that the application has not been amended to include goods that are not within the scope of the goods set forth in the present application.</p> <p>Applicant notes that, as this is a final Office Action, it has concurrently filed a Notice of Appeal to preserve its rights in this matter.</p> <p>If questions remain, the Examining Attorney is invited to contact applicant's counsel, Kevin S. Costanza, by email at KevinC.docketing@SeedIP.com or by telephone at (206) 622-4900.</p>	
<b>GOODS AND/OR SERVICES SECTION (010)(current)</b>	
<b>INTERNATIONAL CLASS</b>	010
<b>DESCRIPTION</b>	
<p>medical stents; ophthalmic implants comprised of artificial material; orthopedic implants comprised of artificial material; otolaryngology implants comprised of artificial material; plastic surgery implants comprised of artificial material; genitourinary implants comprised of artificial material; gastrointestinal implants comprised of artificial material; dural implants comprised of artificial material; neurological implants comprised of artificial material; medical shunts; neurological shunts; cardiovascular catheters; gastrointestinal catheters; genitourinary catheters; cardiovascular grafts; surgical adhesions barriers; cardiovascular infusion lines; cardiovascular ports; angioplasty balloons; vascular dressings and bandages; dural patches; medical devices with echogenic surfaces produced by coatings that enhance ultrasound imaging and ultrasound imaging in procedures; medical devices with</p>	

echogenic surfaces produced by mechanical roughening of the surfaces that enhance diagnostic ultrasound imaging and ultrasound imaging medical procedures; hemostatic flow valves, biopsy instruments; punctual occlusion products; cannulas; punctures; predilators; dilators; coaxial dilators; stents; wires; guide wires; vascular grafts; catheters; blood vessel catheters; coronary angio-plastic catheters; catheters for interventional radiology; catheter sets; balloon catheters; catheters; central venous catheters; infusion catheters; retrieval baskets; introducer systems consisting of catheters, guide wires, syringes and needles; ports; Peripherally Inserted Central Catheter ("PICC") lines; trans-lumbar sets consisting of catheters, guide wires, syringes and needles; connectors for connecting surgical and/or medical tubing; drainage bags for use in radiology, gastroenterology, urology and gynecology; knives used to create incisions for cataract or refractive surgery, including keratome and spuds; surgical and ophthalmic blades, knives and scalpels; scalpel blades; scalpel and knife handles; ligature string; sutures and other wound fasteners; suture materials; suture needles; needled sutures; medical and surgical needles; surgical staples; clips; surgical knives; protectors and guards for needles and other sharps; replaceable elements for suture attaching equipment; foreign body retrieval apparatus; shunts; cloth cushion covers for rigid eye protectors for medical use; artificial limbs, eyes and teeth; orthopedic articles and implants; trocars; bone drills; fixation pins; drainage tubes and bags; screw dilators; invasive monitoring equipment in the nature of electrodes and transdermal ports; medical instruments for use in performing biopsies; biopsy needles; biopsy sample guns; bone marrow biopsy devices; reusable handle biopsy guns; adjustable automated aspiration device for use in medical biopsies; punctum plugs; bone cement delivery instruments; cystotomes; retrobulbars; hypodermic syringes; hypodermic needles; cortex extractors; iris retractors; lens loops; capsulotomy kits and syringes; umbilical tape; I;V; sets and collagen implants; non-invasive topical hemostasis pads; breast biopsy site markers for use in medical procedures; surgical meshes for medical use; meshes having drug eluting and bioresorbing functions for use in treating the unwanted growth of tissues at surgical sites; and parts, accessories and supplementary products for all the aforementioned goods; and all of the aforementioned goods comprising lubricious polymer coatings

**FILING BASIS**

Section 1(b)

**GOODS AND/OR SERVICES SECTION (010)(proposed)****INTERNATIONAL CLASS**

010

**DESCRIPTION**

medical stents; ophthalmic implants comprised of artificial material; orthopedic implants comprised of artificial material; otolaryngology implants comprised of artificial material; plastic surgery implants comprised of artificial material; genitourinary implants comprised of artificial material; gastrointestinal implants comprised of artificial material; dural implants comprised of artificial material; neurological implants comprised of artificial material; anastomosis devices, namely, medical shunts and neurological shunts; cardiovascular catheters; gastrointestinal catheters; genitourinary catheters; adhesive bands for medical purposes, namely, surgical adhesions barriers; medical devices for use in administering fluids and drugs, namely, cardiovascular infusion lines and cardiovascular ports; angioplasty balloons; implants made of artificial material for use in treatment of the neurological system, namely, dural patches; medical ultrasound apparatus, namely, medical devices with echogenic surfaces produced by coatings that enhance ultrasound imaging and ultrasound imaging in procedures; medical ultrasound apparatus, namely, medical devices with echogenic surfaces produced by mechanical roughening of the surfaces that enhance diagnostic ultrasound imaging and ultrasound imaging medical procedures; medical device for controlling bleeding, namely, hemostatic flow valves; biopsy instruments; punctual occlusion products for medical use, namely, medical introducers and punctal plugs; cannulae; predilators, namely, medical introducers; dilators for medical use, namely, coaxial dilators, stents; medical guidewires; catheters; blood vessel catheters;

coronary angio-plastic catheters; catheters for interventional radiology; catheter sets consisting primarily of catheters; balloon catheters; central venous catheters; infusion catheters; medical apparatus for placing surgical instruments, namely, retrieval baskets; introducer systems consisting of catheters, medical guidewires, medical syringes and needles for medical use; vascular ports; medical tubing in the nature of peripherally inserted central catheter lines; trans-lumbar sets consisting of catheters, medical guidewires, medical syringes and needles for medical use; connectors for connecting surgical and medical tubing; drainage appliances for surgical procedures, namely, drainage bags for use in radiology, gastroenterology, urology and gynecology; surgical knives, namely, knives used to create incisions for cataract or refractive surgery; surgical and ophthalmic blades, knives and scalpels; surgical blades, namely, scalpel blades; scalpel and medical knife handles; surgical ligature string; sutures; wound fasteners, namely, adhesive gels; suture materials, namely, dressing forceps, forceps for medical use; needles for medical use, namely, suture needles; needled sutures; medical and surgical needles; surgical staples; surgical clips; surgical knives; protectors and guards for medical needles and other medical sharps; replaceable elements for suture attaching equipment; foreign body retrieval apparatus for medical use, namely, forceps; anastomosis devices, namely, shunts; cloth cushion covers for rigid eye protectors for post surgery eye protection; artificial limbs, eyes and teeth; orthopedic articles and implants, namely, orthopedic joint implants, orthopedic belts, orthopedic braces, orthopedic supports, splints; surgical instruments, namely, trocars and punctures; bone setting machines and instruments, namely, bone drills, and fixation pins; drainage appliances for surgical procedures, namely, drainage tubes and bags; screw dilators, namely; patient monitoring sensors and apparatus, namely, invasive monitoring equipment in the nature of electrodes and transdermal ports; medical instruments for use in performing biopsies; needles for medical use, namely, biopsy needles; biopsy instruments, namely, biopsy sample guns; biopsy instruments, namely, bone marrow biopsy devices; biopsy instruments, namely, reusable handle biopsy guns; biopsy instruments, namely, adjustable automated aspiration device for use in medical biopsies; surgical abd medical apparatus and instruments for use in general surgery, namely, punctum plugs; bone cement delivery instruments for medical use; knives for medical use, namely, cystotomes; hypodermic syringes; hypodermic needles; surgical apparatus and instruments for use in ophthalmic surgery, namely, retrobulbar or tumor-excising surgical instrument, cortex extractors, iris retractors, lens loops, and capsulotomy kits and syringes; intravenous sets comprised primarily of intravenous feeding bottles and intravenous feeding tubes; breast biopsy site markers for use in medical procedures; implants made of artificial material in the nature of surgical meshes for medical use, and meshes having drug eluting and bioresorbing functions for use in treating the unwanted growth of tissues at surgical sites; and all of the aforementioned goods comprising lubricious polymer coatings

<b>FILING BASIS</b>	Section 1(b)
<b>GOODS AND/OR SERVICES SECTION (005)(class added)</b>	
<b>INTERNATIONAL CLASS</b>	005
<b>DESCRIPTION</b>	
cardiovascular grafts; vascular grafts; surgical dressings, namely, vascular dressings; bandages for vascular dressings; biological implants, namely, processed human or animal connective tissue in the nature of collagen implants; medical adhesive tape, namely, umbilical tape; wound dressings, namely, non-invasive topical hemostasis pads; and bronchial dilators	
<b>FILING BASIS</b>	Section 1(b)
<b>PAYMENT SECTION</b>	
<b>NUMBER OF CLASSES</b>	1

FEE PER CLASS	325
TOTAL FEES DUE	325
<b>SIGNATURE SECTION</b>	
DECLARATION SIGNATURE	/Kevin S. Costanza/
SIGNATORY'S NAME	Kevin S. Costanza
SIGNATORY'S POSITION	Attorney for Applicant
DATE SIGNED	02/06/2008
RESPONSE SIGNATURE	/Kevin S. Costanza/
SIGNATORY'S NAME	Kevin S. Costanza
SIGNATORY'S POSITION	Attorney for Applicant
DATE SIGNED	02/06/2008
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
<b>FILING INFORMATION SECTION</b>	
SUBMIT DATE	Wed Feb 06 18:28:30 EST 2008
TEAS STAMP	USPTO/RFR-64.38.133.114-2 0080206182830089720-77039 012-410144c39ce1591be6d5f a1f16f8c1d1fbd-DA-3147-20 080206182103889840

PTO Form 1960 (Rev 9/2007)

OMB No. xxxx-xxxx (Exp. x/xxxx)

### Request for Reconsideration after Final Action

#### To the Commissioner for Trademarks:

Application serial no. 77039012 has been amended as follows:

#### ARGUMENT(S)

**In response to the substantive refusal(s), please note the following:**

In the final Office Action dated August 7, 2007, the Examining Attorney rejected applicant's identification of goods as being too broad and/or unclear. In addition, the Examining Attorney stated that some of the goods listed in the application should be classified in International Class 5.

Accordingly, applicant herein amends its identification of goods to provide further clarification. As a result of this amendment, applicant has reclassified some of its goods into newly added International Class 5. The requisite fee for the newly added class is provided for herein. The Director is hereby authorized to charge any additional filing fees to Deposit Account No. 19-1090. Applicant asserts that the application has not been amended to include goods that are not within the scope of the goods set forth in the present application.

Applicant notes that, as this is a final Office Action, it has concurrently filed a Notice of Appeal to preserve its rights in this matter.

If questions remain, the Examining Attorney is invited to contact applicant's counsel, Kevin S. Costanza, by email at KevinC.docketing@SeedIP.com or by telephone at (206) 622-4900.

#### **CLASSIFICATION AND LISTING OF GOODS/SERVICES**

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 010 for medical stents; ophthalmic implants comprised of artificial material; orthopedic implants comprised of artificial material; otolaryngology implants comprised of artificial material; plastic surgery implants comprised of artificial material; genitourinary implants comprised of artificial material; gastrointestinal implants comprised of artificial material; dural implants comprised of artificial material; neurological implants comprised of artificial material; medical shunts; neurological shunts; cardiovascular catheters; gastrointestinal catheters; genitourinary catheters; cardiovascular grafts; surgical adhesions barriers; cardiovascular infusion lines; cardiovascular ports; angioplasty balloons; vascular dressings and bandages; dural patches; medical devices with echogenic surfaces produced by coatings that enhance ultrasound imaging and ultrasound imaging in procedures; medical devices with echogenic surfaces produced by mechanical roughening of the surfaces that enhance diagnostic ultrasound imaging and ultrasound imaging medical procedures; hemostatic flow valves, biopsy instruments; punctual occlusion products; cannulas; punctures; predilators; dilators; coaxial dilators; stents; wires; guide wires; vascular grafts; catheters; blood vessel catheters; coronary angio-plastic catheters; catheters for interventional radiology; catheter sets; balloon catheters; catheters; central venous catheters; infusion catheters; retrieval baskets; introducer systems consisting of catheters, guide wires, syringes and needles; ports; Peripherally Inserted Central Catheter ("PICC") lines; trans-lumbar sets consisting of catheters, guide wires, syringes and needles; connectors for connecting surgical and/or medical tubing; drainage bags for use in radiology, gastroenterology, urology and gynecology; knives used to create incisions for cataract or refractive surgery, including keratome and spuds; surgical and ophthalmic blades, knives and scalpels; scalpel blades; scalpel and knife handles; ligature string; sutures and other wound fasteners; suture materials; suture needles; needled sutures; medical and surgical needles; surgical staples; clips; surgical knives; protectors and guards for needles and other sharps; replaceable elements for suture attaching equipment; foreign body retrieval apparatus; shunts; cloth cushion covers for rigid eye protectors for medical use; artificial limbs, eyes and teeth; orthopedic articles and implants; trocars; bone drills; fixation pins; drainage tubes and bags; screw dilators; invasive monitoring equipment in the nature of electrodes and transdermal ports; medical instruments for use in performing biopsies; biopsy needles; biopsy sample guns; bone marrow biopsy devices; reusable handle biopsy guns; adjustable automated aspiration device for use in medical biopsies; punctum plugs; bone cement delivery instruments; cystotomes; retrobulbars; hypodermic syringes; hypodermic needles; cortex extractors; iris retractors; lens loops; capsulotomy kits and syringes; umbilical tape; I; V; sets and collagen implants; non-invasive topical hemostasis pads; breast biopsy site markers for use in medical procedures; surgical meshes for medical use; meshes having drug eluting and bioresorbing functions for use in treating the unwanted growth of tissues at surgical sites; and parts, accessories and supplementary products for all the aforementioned goods; and all of the aforementioned goods comprising lubricious

polymer coatings

Original Filing Basis:

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Proposed:** Class 010 for medical stents; ophthalmic implants comprised of artificial material; orthopedic implants comprised of artificial material; otolaryngology implants comprised of artificial material; plastic surgery implants comprised of artificial material; genitourinary implants comprised of artificial material; gastrointestinal implants comprised of artificial material; dural implants comprised of artificial material; neurological implants comprised of artificial material; anastomosis devices, namely, medical shunts and neurological shunts; cardiovascular catheters; gastrointestinal catheters; genitourinary catheters; adhesive bands for medical purposes, namely, surgical adhesions barriers; medical devices for use in administering fluids and drugs, namely, cardiovascular infusion lines and cardiovascular ports; angioplasty balloons; implants made of artificial material for use in treatment of the neurological system, namely, dural patches; medical ultrasound apparatus, namely, medical devices with echogenic surfaces produced by coatings that enhance ultrasound imaging and ultrasound imaging in procedures; medical ultrasound apparatus, namely, medical devices with echogenic surfaces produced by mechanical roughening of the surfaces that enhance diagnostic ultrasound imaging and ultrasound imaging medical procedures; medical device for controlling bleeding, namely, hemostatic flow valves; biopsy instruments; punctual occlusion products for medical use, namely, medical introducers and punctal plugs; cannulae; predilators, namely, medical introducers; dilators for medical use, namely, coaxial dilators, stents; medical guidewires; catheters; blood vessel catheters; coronary angio-plastic catheters; catheters for interventional radiology; catheter sets consisting primarily of catheters; balloon catheters; central venous catheters; infusion catheters; medical apparatus for placing surgical instruments, namely, retrieval baskets; introducer systems consisting of catheters, medical guidewires, medical syringes and needles for medical use; vascular ports; medical tubing in the nature of peripherally inserted central catheter lines; trans-lumbar sets consisting of catheters, medical guidewires, medical syringes and needles for medical use; connectors for connecting surgical and medical tubing; drainage appliances for surgical procedures, namely, drainage bags for use in radiology, gastroenterology, urology and gynecology; surgical knives, namely, knives used to create incisions for cataract or refractive surgery; surgical and ophthalmic blades, knives and scalpels; surgical blades, namely, scalpel blades; scalpel and medical knife handles; surgical ligature string; sutures; wound fasteners, namely, adhesive gels; suture materials, namely, dressing forceps, forceps for medical use; needles for medical use, namely, suture needles; needled sutures; medical and surgical needles; surgical staples; surgical clips; surgical knives; protectors and guards for medical needles and other medical sharps; replaceable elements for suture attaching equipment; foreign body retrieval apparatus for medical use, namely, forceps; anastomosis devices, namely, shunts; cloth cushion covers for rigid eye protectors for post surgery eye protection; artificial limbs, eyes and teeth; orthopedic articles and implants, namely, orthopedic joint implants, orthopedic belts, orthopedic braces, orthopedic supports, splints; surgical instruments, namely, trocars and punctures; bone setting machines and instruments, namely, bone drills, and fixation pins; drainage appliances for surgical procedures, namely, drainage tubes and bags; screw dilators, namely; patient monitoring sensors and apparatus, namely, invasive monitoring equipment in the nature of electrodes and transdermal ports; medical instruments for use in performing biopsies; needles for medical use, namely, biopsy needles; biopsy instruments, namely, biopsy sample guns; biopsy instruments, namely, bone marrow biopsy devices; biopsy instruments, namely, reusable handle biopsy guns; biopsy instruments, namely, adjustable automated aspiration device for use in medical biopsies; surgical abd medical apparatus and instruments for use in general surgery, namely, punctum plugs; bone cement delivery instruments for medical use; knives for medical use, namely, cystotomes; hypodermic syringes; hypodermic needles; surgical apparatus and instruments for use in ophthalmic surgery, namely, retrobulbar or tumor-excising surgical instrument, cortex

extractors, iris retractors, lens loops, and capsulotomy kits and syringes; intravenous sets comprised primarily of intravenous feeding bottles and intravenous feeding tubes; breast biopsy site markers for use in medical procedures; implants made of artificial material in the nature of surgical meshes for medical use, and meshes having drug eluting and bioresorbing functions for use in treating the unwanted growth of tissues at surgical sites; and all of the aforementioned goods comprising lubricious polymer coatings

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**Applicant hereby adds the following class of goods/services to the application:**

**New:** Class 005 for cardiovascular grafts; vascular grafts; surgical dressings, namely, vascular dressings; bandages for vascular dressings; biological implants, namely, processed human or animal connective tissue in the nature of collagen implants; medical adhesive tape, namely, umbilical tape; wound dressings, namely, non-invasive topical hemostasis pads; and bronchial dilators

**Filing Basis: Section 1(b), Intent to Use:** The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

**FEE(S)**

Fee(s) in the amount of \$325 is being submitted.

**SIGNATURE(S)**

**Declaration Signature**

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii). If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods or services listed in the application as of the application filing date. 37 C.F.R. Secs. 2.34(a)(1)(i). The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /Kevin S. Costanza/ Date: 02/06/2008

Signatory's Name: Kevin S. Costanza

Signatory's Position: Attorney for Applicant

**Request for Reconsideration Signature**

Signature: /Kevin S. Costanza/ Date: 02/06/2008

Signatory's Name: Kevin S. Costanza

## Signatory's Position: Attorney for Applicant

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

RAM Sale Number: 3147

RAM Accounting Date: 02/07/2008

Serial Number: 77039012

Internet Transmission Date: Wed Feb 06 18:28:30 EST 2008

TEAS Stamp: USPTO/RFR-64.38.133.114-2008020618283008

9720-77039012-410144c39ce1591be6d5fa1f16

f8c1d1fbd-DA-3147-20080206182103889840



RAM SALE NUMBER: 3147  
RAM ACCOUNTING DATE: 20080207

INTERNET TRANSMISSION DATE:  
2008/02/06

SERIAL NUMBER:  
77/039012

Description	Fee Code	Transaction Date	Fee	Number Of Classes	Total Fees Paid
New App	7001	2008/02/06	325	1	325